

AMENDED IN SENATE SEPTEMBER 3, 2013

AMENDED IN SENATE AUGUST 12, 2013

AMENDED IN SENATE JULY 2, 2013

AMENDED IN SENATE JUNE 17, 2013

AMENDED IN ASSEMBLY MAY 29, 2013

AMENDED IN ASSEMBLY APRIL 10, 2013

AMENDED IN ASSEMBLY MARCH 18, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 763

Introduced by Assembly Member Buchanan

February 21, 2013

An act to add Section 64.5 to the Harbors and Navigation Code, relating to aquatic invasive plants.

LEGISLATIVE COUNSEL'S DIGEST

AB 763, as amended, Buchanan. Aquatic invasive plants: control and eradication.

Existing law designates the ~~Department~~ *Division* of Boating and Waterways as the lead agency of the state for the purpose of cooperating with agencies of the United States and other public agencies in controlling certain invasive plants in the Sacramento-San Joaquin Delta, its tributaries, and the marsh, and authorizes the ~~department~~ *division* to furnish money, services, equipment, and other property for the control of those invasive plants.

This bill would additionally designate the ~~department~~ *division* as the lead agency of the state for the purpose of cooperating with other state, local, and federal agencies in identifying, detecting, controlling, and administering programs to manage invasive aquatic plants, as defined, in the Sacramento-San Joaquin Delta, its tributaries, and the Suisun Marsh. The bill would authorize the ~~department~~ *division*, in consultation with appropriate state, local, and federal agencies, and upon concurrence from the Department of Fish and Wildlife following the completion of a specified assessment described in the bill, to take such action it determines is necessary to implement control and, when feasible, eradication measures for those invasive aquatic plants.

This bill would require the ~~department~~ *division* to regularly consult with the United States Department of Agriculture, the United States Fish and Wildlife Service, the National Oceanic and Atmospheric Administration, the University of California, and other members of the scientific and research communities, and other state agencies with authority over the control of invasive aquatic plants, to determine which species of those plants should be given the highest priority for management and to determine the best control, and, when feasible, eradication measures. The bill would also require the ~~department~~ *division*, after consulting with those entities, if it identifies a species of aquatic plant that may be invasive and need to be controlled or eradicated, to notify the Department of Fish and Wildlife of the potential threat from that aquatic plant.

The bill would require the Department of Fish and Wildlife, after receipt of that notice, in consultation with other appropriate local, state, and federal agencies, to conduct a risk assessment of that aquatic plant species to determine whether the plant species presents a threat to the environment, economy, or human health, as determined after consideration of specified factors. The bill would require the risk assessment to specify whether the aquatic plant under consideration has been determined to be an invasive aquatic plant. The bill would require the Department of Fish and Wildlife, within 60 days after completing that assessment, to report its findings to the ~~department~~ *division* so that the ~~department~~ *division* may take any necessary action to control and, when feasible, eradicate an invasive aquatic plant, as authorized under the bill.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) The spread of invasive aquatic plants is a continuing problem
4 in the Sacramento-San Joaquin Delta, its tributaries, and the Suisun
5 Marsh.

6 (b) Invasive aquatic plants impact the Sacramento-San Joaquin
7 Delta, its tributaries, and the Suisun Marsh by creating navigational
8 obstructions and hazards for boats and other watercraft; impairing
9 recreational activities such as swimming, fishing, and hunting;
10 damaging water supply infrastructure and flood protection systems;
11 altering water quality; and degrading the physical and chemical
12 characteristics of fish and wildlife habitat.

13 (c) Coordinated, early-stage response to introductions of invasive
14 aquatic plants is critical to long-term control and management of
15 those invasive species to protect the state's environment, economy,
16 and human health from harmful impacts of those invasive species.

17 (d) Authorizing the ~~Department~~ *Division* of Boating and
18 Waterways to cooperate with other state, federal, and local agencies
19 in the identification and management of invasive aquatic plants
20 in-lieu of requiring that the ~~department~~ *division* undertake
21 legislative action each time a new species of invasive aquatic plant
22 is identified, would enable the state to manage and control invasive
23 aquatic plants in the Sacramento-San Joaquin Delta, its tributaries,
24 and the Suisun Marsh in a more cost-efficient and effective manner
25 than is currently implemented.

26 SEC. 2. Section 64.5 is added to the Harbors and Navigation
27 Code, to read:

28 64.5. (a) The ~~department~~ *division* is designated as the lead
29 agency of the state for the purpose of cooperating with other state,
30 local, and federal agencies in identifying, detecting, controlling,
31 and administering programs to manage invasive aquatic plants in
32 the Sacramento-San Joaquin Delta, its tributaries, and the Suisun
33 Marsh. The ~~department~~, *division*, in consultation with appropriate
34 state, local, and federal agencies, may take such action it determines
35 is necessary, upon concurrence from the Department of Fish and
36 Wildlife following the completion of the risk assessment described
37 in subdivision (c), to implement control and, when feasible,
38 eradication measures for invasive aquatic plants. Any actions taken

1 to control invasive aquatic plants shall be in compliance with all
2 applicable laws and regulations and conducted in an
3 environmentally sound manner.

4 (b) The ~~department~~ *division* shall regularly consult with the
5 United States Department of Agriculture, the United States Fish
6 and Wildlife Service, the National Oceanic and Atmospheric
7 Administration, the University of California, and other members
8 of the scientific and research communities, as well as other state
9 agencies with authority over the control of invasive aquatic plants
10 to determine which species of those plants should be given the
11 highest priority for management and determine the best control
12 and, when feasible, eradication measures.

13 (c) (1) After consulting with the various entities as required in
14 subdivision (b), if the ~~department~~ *division* identifies a species of
15 aquatic plant that may be invasive and need to be controlled or
16 eradicated, the ~~department~~ *division* shall notify the Department of
17 Fish and Wildlife of the potential threat from that *aquatic* plant
18 species. After receipt of that notice, the Department of Fish and
19 Wildlife, in consultation with other appropriate local, state, and
20 federal agencies, including, but not limited to, the Department of
21 Food and Agriculture, the Department of Water Resources, the
22 State Water Resources Control Board, the Department of Pesticide
23 Regulation, and the Office of Environmental Health Hazard
24 Assessment, shall conduct a risk assessment of the aquatic plant
25 species identified by the ~~department~~ *division* to determine whether
26 the plant species is invasive and presents a threat to the
27 environment, economy, or human health. In making that
28 determination, the ~~department~~ *Department of Fish and Wildlife*
29 shall take prompt action to minimize detrimental impacts and costs
30 of management, and shall consider all of the following:

31 (A) Whether the aquatic plant species may obstruct navigation
32 and recreational uses of waterways.

33 (B) Whether the aquatic plant species may cause environmental
34 damage, including threats to the health and stability of fisheries,
35 impairment to birds' access to waterways and nesting, roosting,
36 and foraging areas, deterioration of water quality resulting from
37 plant decay, and harm to native plants.

38 (C) Whether the aquatic plant species may cause harm to the
39 state's economy, infrastructure, or manmade facilities such as state
40 water storage facilities and pumping operations, by increasing

1 flood risk, threatening water supplies by blocking pumps, canals,
2 and dams necessitating early control efforts.

3 (2) Based on factors specified in subparagraphs (A), (B), and
4 (C) of paragraph (1) and any other environmental, economic, or
5 human health impacts, the risk assessment shall specify whether
6 the plant species under consideration has been determined to be
7 an invasive aquatic plant. Findings from the risk assessment shall
8 be documented in a way that clearly describes the severity and
9 types of impacts caused by a plant species determined to be an
10 invasive aquatic plant.

11 (3) Within 60 days after completing the risk assessment required
12 by paragraph (1), the Department of Fish and Wildlife shall report
13 its findings to the ~~department~~ *division* so that the ~~department~~
14 *division* may take any necessary action to control and, when
15 feasible, eradicate an invasive aquatic plant, as authorized under
16 subdivision (a).

17 (d) For purposes of this section, “invasive aquatic plant” means
18 an aquatic plant or algae species, including its seeds, fragments,
19 and other biological materials capable of propagating that species,
20 whose proliferation or dominant colonization of an area causes or
21 is likely to cause economic or environmental harm or harm to
22 human health.

23 (e) Aquatic plants shall be determined to be invasive through
24 the risk assessment required to be completed by the Department
25 of Fish and Wildlife in consultation with the ~~department~~ *division*
26 and other state, local, and federal agencies pursuant to subdivision
27 (c).